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08/08/18
02:36 PM

MP6/jt2 8/8/2018

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation into the
Creation of a Shared Database or Statewide
Census of Utility Poles and Conduit in
California.

Investigation 17-06-027

And Related Matters.

Rulemaking 17-06-028

Rulemaking 17-03-009

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

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ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

Summary

This *Scoping Memo and Ruling (Ruling)* sets forth the category, issues, need for hearing, schedule, and other matters necessary to scope Phase I of the OII, as well as the OIR portion of this OII/OIR proceeding pursuant to Pub. Util. Code § 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure.¹ A subsequent ruling will be issued that identifies the scope of the OII, Phase II, of this proceeding.

1. Background

On June 29, 2017, the Commission issued Investigation 17-06-027 and Rulemaking 17-06-028 (OII/OIR proceeding) in order to consider strategies for increased and non-discriminatory access to poles and conduit by competitive communications providers, the impact of such increased access on safety, and how best to ensure the integrity of the affected communications and electric supply infrastructure going forward. The Commission also expressed its intention to:

- Investigate the feasibility of a data management platform that will allow stakeholders to share key pole attachment and conduit information;²
- Consider rules that will allow broadband Internet access service (BIAS) providers to attach facilities to poles and to use conduit

¹ California Code of Regulations, Title 20, Division 1, Chapter 1; hereinafter, Rule or Rules.

² OII/OIR proceeding at 1.

following their classification as public utility telecommunications carriers in the FCC's 2015 *Open Internet Order*;³ and

- Consider rules specific to conduit, and better pole management practices.⁴

The OII/OIR proceeding established a preliminary schedule for the OII proceeding, as well as a preliminary scoping memo for the data-gathering segment (Phase 1) and the database modeling segment (Phase 2).⁵ In addition, the parties were instructed to file and serve combined opening comments⁶ and prehearing conference (PHC) statements to address fourteen (14) questions.⁷

With respect to the rulemaking portion of this OII/OIR proceeding, the Commission stated it intended to address new services and new market entrants in light of the increasingly hybrid nature of the telecommunications network, recent developments at the federal level related to broadband providers, problems with pole management that the Commission identified in Decision

³ *In re Protecting and Promoting an Open Internet*, Federal Communications Commission (FCC) Report and Order, 30 FCC Rcd 5601 (March 2015) (*Open Internet Order*), at ¶¶ 478-85. The FCC later reversed the *Open Internet Order* on December 14, 2017.

⁴ OII/OIR proceeding at 1.

⁵ *Id.*

⁶ The following parties filed opening comments: AT&T, Bear Valley Electric Service (BVES), CALTEL, California Cable and Telephone Association (CCTA), Charter, CTIA Wireless Association (CTIA), ExteNet Systems (CA) LLC (ExteNet), Frontier Communications of California (Frontier), Office of Ratepayer Advocates (ORA), PacifiCorp (PC), Southern California Gas Company (SoCalGas), San Diego Gas & Electric Company (SDG&E), and Cello/MCIMetro (Verizon). AT&T, CALTEL, CCTA, California Municipal Utility Association (CMUA), ORA, Pacific Gas and Electric Company (PG&E), and SDG&E filed reply comments.

⁷ OII/OIR proceeding at 30-35.

(D.) 16-12-025⁸, and general concerns about the safety and reliability of the electric supply and communications infrastructure in this environment, with the hope of harmonizing its Right of Way (ROW) Rules with these additional concerns.⁹ The parties were invited to file and serve opening and reply comments.

The Commission consolidated this OII/OIR proceeding with Rulemaking (R.) 17-03-009,¹⁰ which the Commission opened to consider whether and how our existing ROW rules should be applied to facilities (lines, antennas, *etc.*) installed by competitive local exchange carriers (CLECs) in order to support and enable the provision of service by wireless carriers.

1.1. Prehearing Conference

A prehearing conference (PHC) was set for December 5, 2017. The following parties filed PHC statements: CALTEL, Community Access Television, City and County of San Francisco, Frontier, CMUA, Verizon, The Utility Reform Network (TURN), Southern California Edison Company (SCE), AT&T, PG&E, CTIA, SoCalGas, SDG&E, and the Commission's Safety and Enforcement Division (SED). The December 5, 2017 PHC occurred as noticed and was well attended by the parties.

⁸ Order Instituting Investigation (Investigation 15-11-007) into the State of Competition Among Telecommunications Providers in California, and to Consider and Resolve Questions raised in the Limited Rehearing of Decision 08-09-042.

⁹ OII/OIR proceeding at 36.

¹⁰ R.17-03-009, *Order Granting Petition 16-08-016 and ... Instituting Rulemaking to consider Amendments to the Revised Right of Way Rules Adopted in D.16-01-046 (WIA Petition/Rulemaking)*, issued on April 3, 2017. *Approved by the Commission in Decision 18-04-007 on April 22, 2018.*

1.2. Ruling Regarding Database

Based on the comments made at the PHC, the assigned Commissioner and the assigned Administrative Law Judge (ALJ) issued a *Ruling Requesting Comments on Creation of Shared, Statewide Database of Utility Pole and Conduit Information* dated January 11, 2018 (*January 11, 2018 Ruling*).¹¹ Attached to the Ruling was a “strawman” with variables for inclusion into a database or census and five questions. The following parties filed and served comments: AT&T, BVES, California Association of Competitive Telecommunications Companies, CCTA, CTIA, ExteNet, ORA, PC, PG&E, SCE, and SoCalGas. Many parties pointed out that designating necessary data fields is a difficult enterprise to accomplish without first understanding the uses that the data needs to support. I have taken these comments to heart and will include as part of this Ruling a use case staff proposal for comments, followed by a workshop that will identify and align necessary data fields with specific uses cases. (See Table 1, *infra*, at Section 2.1 of this *Ruling*.)

1.3. Joint Motion to Set Collaborative Workshops

On February 5, 2018, Joint Parties¹² filed a Joint Motion to set collaborative workshops in order to (1) identify all stakeholders of specific, actionable objectives within the scope of this OII/OIR proceeding; and (2) consider the issues identified in the *January 11, 2018 Ruling*.

¹¹ The *January 11, 2018 Ruling* included an outdated version of Attachment A. An updated *Ruling* dated January 16, 2018, attached the correct version of Attachment A that the parties should rely upon in order to prepare their input.

¹² AT&T, BVES, California Association of Competitive Telecommunications Companies, CTIA, Frontier, PC, PG&E, SDG&E, SCE, and SoCalGas.

While I appreciate the intent behind the Joint Motion, I am denying it, without prejudice. Given the complexity of the issues, the number of parties, and the need for coordination, I will, instead, schedule Public Participation Hearings (PPHs) that may include a workshop component. If I believe this OII/OIR proceeding would benefit from additional workshops, I will instruct the parties when such workshops should be held. Of course, in so ruling, I do not mean to suggest that interested parties may not meet among themselves in order to discuss the issues identified in this Ruling and, where they determine to be appropriate, prepare joint filings with the Commission.

2. Scope of the OII

2.1. Phase I (Information Sharing, Discussion of Use Cases, and Workshop)

Phase I is the information gathering phase of the OII/OIR proceeding. The Commission has received sufficient responses to gain a general understanding of the various databases and systems in use by the parties, and the need for completeness and accuracy of information contained therein to assist the Commission in meeting its goals for Phase I: (1) to acquire accurate and comprehensive pole and conduit data through a pole census or other methods; (2) to establish one or more databases with systems to make such data available to support public and workforce safety; and (3) to determine the appropriate level of Commission oversight of utility support structures to ensure non-discriminatory access to poles by third party communications companies whose right to such access is mandated by state and federal law.

The Commission can achieve the goals set above by allowing the parties to assist the Commission in developing Use Cases. A use case is made up of a set of possible sequences of interactions between systems and users within an

environment and related to a particular goal. A use case can be utilized during the analysis phase of a project to identify system functionality and system requirements. In the following table, I have set forth a use case proposal that the Commission has developed in order for the parties to provide comments:

Table 1: Use Cases			
Use Case No.	Use Case Scenarios	Use Case Description with Goal	Use Case Extensions
1	Maintain Accurate and Comprehensive Pole & Conduit Asset Inventory in Spatial Database	Maintain accurate comprehensive pole and conduit asset inventory in spatial database, with ownership identification and adjacency, of utility pole and conduit structures and other supply and communication facilities that occupy the pole and conduit structures including: conductors, cables, crossarms, guys, messengers, antennas, and other facilities and attachments.	#2, #3, #4, #5, #6, #7, #8
2	Identify Abandoned Pole & Conduit Assets	Identify abandoned assets or facilities, including buddy poles.	# 3, #8
3	Identify, Notify, & Monitor Potential Violations and Safety Hazards	Identify, notify, and monitor potential General Order (GO) 95 violations and Safety Hazards in accordance with GO 95 Rule 18A and GO 165, including coordination of work between pole owners and attachers. For example, if a utility or communication company is performing an inspection and identifies potential violations by another company it can transmit	# 7, #8

		the required notice using the database.	
4	Manage and Record Pole & Conduit Related Inspections and Results	Manage and record pole and conduit related inspections and results required by GO 165 including patrols, overhead and underground detailed inspections and wood pole intrusive inspections.	# 5, #6, #7, #8
5	Verify Pole Loading Assessment Software & Design Criteria	Evaluate pole loading assessment software and design criteria to verify regulations, requirements and specifications are fulfilled. Evaluation includes testing, inspection, design analysis, specification analysis and other quality management assessment work and will typically utilize a statistically valid representative sample of pole asset data.	#6, #7, #8
6	Validate Pole Loading Assessment Process	Validate pole loading assessment process with experienced field personnel and any other required stakeholders to ensure that assessments fulfill their intended purpose.	#7, #8
7	Maintain Pole & Conduit Repair & Replacement Plan Data	Maintain up-to-date pole and conduit repair and replacement plan data in spatial database with short, medium and long term planning, scheduling and temporary facilities planning information.	#8

8	Facilitate Nondiscriminatory Access to Poles & Conduit	Facilitate nondiscriminatory access to pole structures and conduit in accordance with statutory requirements. This use case will depend on accurate pole asset inventory, abandoned asset identification, pole work tracking & coordination and increased pole loading assessment transparency and accuracy.	
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Parties should comment on the usefulness of the Use Cases for developing a database and what data fields from the database straw proposal would be required. As such, this *Ruling* instructs the parties to file comments on the Use Cases as follows:

- I. Provide comment about the proposed Use Cases listed above and how they relate to objectives of the OII and prioritize them by ranking them 1-8, with 1 being the highest priority for development. Comments may include suggested refinements and improvements to the proposed Use Cases and/or may include new Use Cases within the context of the scope of the proceeding.
- II. Describe potential benefits of each of the following Use Cases:
 1. Maintain Accurate and Comprehensive Pole & Conduit Asset Inventory in Spatial Database
 2. Identify Abandoned Pole & Conduit Assets
 3. Identify, Notify, and Monitor Potential Violations & Safety Hazards
 4. Manage and Record Pole & Conduit Related Inspections and Results
 5. Verify Pole Loading Assessment Software & Design Criteria
 6. Validate Pole Loading Assessment Process

7. Maintain Pole & Conduit Repair & Replacement Plan Data
 8. Facilitate Nondiscriminatory Access to Poles & Conduit
- III. Describe issues or concerns with proposed Use Cases:
1. Maintain Accurate and Comprehensive Pole & Conduit Asset Inventory in Spatial Database
 2. Identify Abandoned Pole & Conduit Assets
 3. Identify, Notify, and Monitor Potential Violations & Safety Hazards
 4. Manage and Record Pole & Conduit Related Inspections and Results
 5. Verify Pole Loading Assessment Software & Design Criteria
 6. Validate Pole Loading Assessment Process
 7. Maintain Pole & Conduit Repair & Replacement Plan Data
 8. Facilitate Nondiscriminatory Access to Poles & Conduit
- IV. Identify which data fields would be critical for the Use Cases identified below using the list of data fields in the straw proposal:
1. Maintain Accurate and Comprehensive Pole & Conduit Asset Inventory in Spatial Database
 2. Identify Abandoned Pole & Conduit Assets
 3. Identify, Notify, and Monitor Potential Violations & Safety Hazards
 4. Manage and Record Pole & Conduit Related Inspections and Results
 5. Verify Pole Loading Assessment Software & Design Criteria
 6. Validate Pole Loading Assessment Process
 7. Maintain Pole & Conduit Repair & Replacement Plan Data
 8. Facilitate Nondiscriminatory Access to Poles & Conduit

Following the receipt of comments, I will work with Commission staff to hold a workshop. The purpose of the workshop will be to present the potential Use Cases, initiate dialogue, and collect input and feedback to refine the Use Cases and match the data fields critical for the defined uses. The desired outcome from the workshop is to refine feasible database uses, identify data fields associated with the Use Cases, and identify potential users.

After the workshop's conclusion, Commission staff will prepare a summary workshop report that identifies which user needs could be fulfilled by the database and identify where party consensus exists regarding a database solution. Staff will request comments to the staff workshop report. Upon receipt of the comments, staff will prepare the final workshop report.

2.2. Phase II of the OII (Design a Database and Ensuring Non-Discriminatory Access)

The parameters of Phase II of the OII will be fleshed out by either a subsequent scoping memo and ruling, or by a ruling from either myself or the assigned Administrative Law Judge.

3. Scope of the OIR

The OIR phase of this OII/OIR proceeding will address (1) proposed Right of Way rule amendments; (2) cumulative safety impacts; (3) cumulative competitive impacts; (4) municipal and smart grid issues; and (5) joint pole association or committee issues. The specific questions that the parties are instructed to address have been gleaned from prior party comments, PHC statements, and oral comments at the PHC, and are set forth as follows:

3.1. Possible Right of Way (ROW) Rule Amendments¹³

1. Should the Commission revisit the timelines set out in D.98-10-058, Rules III and IV? These rules established a two-step process for requesting surplus space or excess capacity on or in utility support structures and rights-of-ways. Rule III governs the initial inquiry for surplus space or excess capacity on or in a utility's support structures and right-of-ways, while Rule IV, which is contingent on the response to the initial inquiry made pursuant to Rule III, governs the submission of a specific request for surplus space or excess capacity. The timelines currently established in these rules apply only to AT&T and Frontier. In contrast, PG&E, SCE, and SDG&E are obliged to negotiate mutually agreeable response times with Competitive Local Exchange Carriers (CLECs), cable television corporations, CMRS providers, and wireless CLECs.¹⁴

AT&T and Frontier are currently required to respond to the initial inquiry for surplus space and excess capacity within 10 business days unless a field survey is required, in which case, each must respond within no more than 20 business days. In cases where the initial inquiry is for space or excess capacity in excess of 500 poles or 5 miles of conduit, parties are directed to negotiate a mutually satisfactory response time. AT&T and Frontier must respond within 45 days to actual requests for space subject to specified mitigating circumstances.

¹³ Throughout these questions references to ROW rules are to the version adopted as Appendix 1 to D.98-10-058. These rules have been modified on two subsequent occasions: once in D.16-01-046 which extended access rights to Commercial Mobile Radio Service (CMRS) providers; and a second time, in D.18-04-007 which extended access rights to CLEC wireless providers. The rules adopted in both decisions did not change the rules which are the subject of this OIR. However, the numbering of these rules has changed in some instances. Nonetheless, because the discussion of the rules which are the subject of this OIR is in D.98-10-058, we have cited the rules appended to that decision and footnoted instances where the numbering of a particular rule reference in a question has changed.

¹⁴ Collectively referred to as "third party communications companies," "third party attachers," "would-be attachers" or "attachers."

- Are these rules working in their current form? If not, please explain why and provide specific examples. Please describe specific disputes of which you are aware, and how they were resolved. Please provide any proposals you may have to improve the referenced rules. Should all pole owners with nondiscriminatory access obligations be held to the same response times as AT&T and Frontier? (OIR Question 17 revised.)
2. Should the Commission revisit the requirement in ROW Rule III.B that the pole-owning utility “provide access to maps, and currently available records such as drawings, plans and any other information,” in light of the current state of digital technology and the possibility of shared digital data? Please list any additional data which should be provided whether it is included in digital records or not and explain why the data is necessary. With respect to records which historically have been provided in a non-digital format, please identify any restrictions on the manner in which these records have been provided and the extent to which the manner of provision has created barriers to efficient route planning by third party attachers. To the extent such restrictions exist and have constrained the ability of third parties to efficiently identify potential routes, what is the rationale for imposing these restrictions and to what extent should they be modified or eliminated? (OIR Question 18 revised.)
 3. Should the Commission revisit and amend the Third Party Contractor Rules in ROW Rule IV.C,¹⁵ to allow for one-touch make-ready (OTMR) and/or right-touch make ready (RTMR), as discussed in the Commission’s competition decision D.16-12-025, and in the FCC’s Wireline Deployment NPRM?¹⁶ (OIR Question 19.)

¹⁵ Numbered as IV.D in the most recent version of the ROW rules.

¹⁶ On July 12, 2018, FCC Chairman Pai released a proposed order in the FCC’s Accelerating Wireline and Wireless Broadband Deployment dockets which adopts an OTMR regime. The proposed order is scheduled for consideration at the FCC’s August meeting. In addition to

Footnote continued on next page

4. D.98-10-098 requires that pole and conduit rates be calculated based on a formula set forth in Pub. Util. Code § 767.5. The decision refers to the rates calculated using the formula as default rates. While third party communications companies are free to negotiate rates which depart from these rates, in the event such negotiations fail, would-be attachers are entitled to the default rates. The majority of existing pole and conduit agreements reflect these rates. In addition, these agreements often include a provision which requires that the rates be adjusted on an annual basis to reflect the changes in the annual cost of pole and conduit ownership calculated based on the formula.

Should attachers with agreements whose rates adjust annually based upon changes to the annual cost of ownership be notified of the new rate on a date certain? How far in advance of the effective date of the new rate should such notice be provided? In addition, should attachers seeking to negotiate new attachment agreements and those with agreements whose rates change on an annual basis be provided with the supporting documents underlying the default rate calculation upon request? If so, please identify these supporting documents with as much specificity as possible. Once requested, how much time should pole owners be given to provide the documents? Finally, how should the Commission enforce this requirement? (New question)

5. ROW Rule VI.C requires the utilities to file all pole and conduit agreements with the Commission. Rule VI.C also requires that

OTMR, the proposed order adopts a number of additional procedures aimed at streamlining the attachment process. The order can be viewed at:

<https://prodnet.www.neca.org/publicationsdocs/wwpdf/71218pole.pdf>.

The OTMR regime adopted in the order, as well other procedures aimed at streamlining the attachment process, are based in large measure on the report and recommendations of the FCC' Broadband Deployment Advisory Committee (BDAC) submitted to the FCC on June 28 of this year. The recommendations and report can be viewed at:

<https://prodnet.www.neca.org/publicationsdocs/wwpdf/0705bdac1.pdf>. To the extent the proposals in the draft order and the recommendations included in the BDAC report are relevant to issues in the current OIR, we encourage parties to discuss them in their comments.

these agreements be made available for “full public inspection” so that the rates, terms, and conditions of these agreements can be made available to similarly situated communications companies. Since the issuance of D.98-10-058, some utilities have submitted ROW agreements requesting confidential treatment pursuant to GO 66-D. Furthermore, the Commission recently found in its decision (D.16-10-043) on rehearing of the ExteNet decision (D.16-01-035) that the confidential treatment of ROW agreements was consistent with the language in Rule VI.C based on other language in D.98-10-058. If the core objective of the ROW decision and ROW rules is to promote nondiscriminatory access to utility support structures, please explain how this can be achieved if negotiated agreements are not made public in their entirety. (New question)

6. The rates, terms, and conditions of dark fiber (fiber strands without transmission electronics and therefore carry no light or signal) leases may influence the decision of a third party communications company to lease rather than construct fiber facilities utilizing existing attachment agreements. Given the relationship of these two kinds of agreements, should dark fiber leases be made publicly available so that the rates, terms, and conditions of these agreements can be extended to similarly situated providers? If not, how can the Commission ensure that leases for dark fiber are not used to discriminate against those companies which elect to construct their own fiber facilities by attaching to utility support structures? If these agreements should be made publically available, is there a legal basis or policy rational for extending this obligation to cable television corporations, CLECs, and wireless CLECs as lessors of dark fiber in addition to pole owners? (New question)
7. The 1998 ROW rules require that AT&T, Frontier, PG&E, SCE, and SDG&E process applications by third-party communications companies for access to poles and conduit. However, this decision fails to designate which utility is responsible for processing attachment requests when poles are jointly owned by these entities. Should the Commission clarify the respective administrative responsibilities of joint pole owners? The above referenced utilities shall identify in their responses what

responsibilities they currently assume for processing applications for wireline and wireless attachment requests on jointly owned poles. (OIR Question 20 revised.)

8. ROW Rule VII concerns reservation of capacity by existing utilities. Rule VII.A prohibits ILECs and electric utilities from adopting policies that result in holding back useable space on or in utility support structures except as set forth in Rule VII.C. Have would-be attachers had difficulty resulting from pole and/or conduit owners' reservation of space? If so please provide concrete examples of such difficulty or dispute, even if the difficulty or dispute was eventually resolved. Are there changes to this rule that would make it more effective? To what extent are different rules for different types of support structures necessary? (OIR Question 21a.)
 - a. D.98-10-058, COL 46 states that the incumbent utility should be permitted to impose conditions on the granting of access which are necessary to ensure safety and engineering reliability of its facilities. For those utilities with nondiscriminatory access obligations, please list any safety and reliability standards which you impose solely on third party attachers or those seeking capacity in utility owned conduit which are not mandated by GO 95, GO 128, or some other law or regulation. In addition, please explain how those standards serve to promote safety and reliability. Please also state whether the imposition of such standards results in the elimination of what otherwise would be surplus space or excess capacity. (New question)
 - b. The Internet Protocol (IP) Transition involves, in part, use of fiber optic facilities instead of copper facilities. Copper facilities are generally larger and much heavier than fiber optic facilities, and thus their presence on poles have greater safety and competitive impacts. Are retired copper communications cables being removed routinely from poles and conduits on a timely basis? When such copper facilities are removed from poles, is their removal reflected in subsequent loading calculations required for new pole attachments, both in the case of jointly and solely owned

poles? When such facilities are removed from poles, does/could the Incumbent Local Exchange Carrier (ILEC) rearrange its remaining attachments to achieve efficient use of space within the communications zone? Are any changes to our General Orders or ROW Rules needed to achieve these results?

- i. Use of unbundled loops by CLECs requires the existence of copper facilities between the loop and the serving wire center. Are copper facilities being left on poles to enable the use of unbundled loops, even though the ILEC owning such copper facilities no longer uses those facilities to provide its own retail services? (2.b and 2.b.i are new questions.)
9. Should the Commission revisit the dispute resolution procedures set out in D.98-10-058? ROW Rule IX sets forth an expedited dispute resolution process for disputes concerning access to utility support structures. Has this rule and the related CPUC processes been adequate to facilitate dispute resolution? If not, please propose modifications to the rule or our process. (OIR Question 21b.)
10. Are there other specific changes to the ROW Rules which are consistent with GO 95 and GO 128 that would increase safe and non-discriminatory access to poles, conduit, or rights-of-way, including with regard to jointly owned poles? (OIR Question 21.)
 - a. Are there other rule changes that would increase safe and non-discriminatory access to poles, conduit, or rights-of-way?
11. Should the Commission work with local governments and with the FCC's Broadband Deployment Advisory Committee to develop model codes that remove unnecessary regulatory barriers to competition, while ensuring the safety of consumers, workers, and the infrastructure grid in general? (OIR Question 22.)
12. What is the impact of a first-come, first-serve system, where the last attacher to an overloaded pole is required to erect a new pole? Does the last attacher's duty to replace existing poles with stronger and/or larger poles to support additional

telecommunications attachments pose a barrier to entry? Are there more equitable ways to apportion those costs? (OIR Question 37.)

13. Should ROW Rule XI.B, regarding safety, be amended to reapportion responsibility, among incumbent pole owners and pole attachers, for non-compliant or unsafe pole conditions? (OIR Question 30.)¹⁷

3.2. Cumulative Safety Impacts

14. Does the increasing demand for pole and conduit access, the aging of many such support facilities, repeated and documented safety violations, and the death and property damage that can happen (and has happened) as a result of pole and pole attachment failure, suggest that it is time for the Commission to take a more active role regarding safety oversight, including a more rigorous statewide framework for reviewing and processing small cell applications? If so, please describe such a framework. (OIR Question 24.)
15. CCTA has stated that “pole owners can enforce the substantial penalties imposed by pole attachment agreements for attaching without authorization.” Please list every such penalty above \$10,000 known by the responding party to have been imposed and collected, identifying which pole owner imposed, which attacher paid, and of what the unauthorized attachment consisted. (OIR Question 25.)
16. Do any local / municipal governments currently undertake any ex ante safety review of the fiber, antenna, and related equipment installations proposed by cable television corporations, CMRS providers, and/or CLEC wireless providers? Do local ordinances or rules require such review? Do Public Utilities Code §§ 2902 or 7901.1, or the California Constitution, provide adequate legal authority for such local oversight? Does such authority exist? Is such review necessary? (OIR Question 26.)

¹⁷ XI.B is number XI.C in the most recent version of the ROW rules.

17. Do local/municipal governments regularly, occasionally, or randomly inspect and/or audit poles and pole attachments after installation for compliance with CPUC GO 95 or other safety requirements? Do local ordinances or rules require such inspection and/or audit? What would be the legal basis for such review and/or audit? Do Public Utilities Code §§ 2902 or 7901.1, or the California Constitution, provide adequate legal authority for local oversight? Does such authority exist? Are such reviews and/or audits necessary? Assuming local entities have this authority or that it can be delegated to them by the Commission, how would the Commission ensure that safety enforcement undertaken by local entities is based upon a consistent set of standards given the variability inherent in the implementation of certain GO 95 rules such as those concerning pole loading? (OIR Question 27 revised.)
18. If the local/municipal governments lack resources, jurisdiction or discretion to review planned pole attachment facilities, or inspect existing facilities, are there cost-effective ways to achieve oversight to the extent it is necessary for public safety? (OIR Question 28.)

3.3. Cumulative Competitive Impacts

19. Are other vertical structures (e.g., streetlights) available to support the deployment of wireless services so as to ameliorate concern about pole capacity? Will they be used? What factors will determine what the ecology of poles, conduit, and other communications support structures looks like in ten years?
20. If one CMRS provider and one CLEC wireless carrier attaches equipment like that pictured in Appendix D to the consolidated OII and OIR, or as described in the comments and schematic drawings submitted in R.17-03-009, does that effectively preclude a second CMRS provider or CLEC wireless carrier, from installing similar equipment? If so, can this be remedied? Are shared facilities or multi-carrier antenna a possible solution? (OIR Question 33 revised.)
21. What level of “densification” will fifth-generation mobile networks or fifth-generation wireless system (5G) require? Can

we estimate the number of additional small cells that will be required? Will that densification occur largely in urban centers, or will 5G be deployed in equal measure in rural areas? What is the most likely timeline for the full deployment of this technology? Will 5G attachments primarily rely on utility support structures, light poles, or other structures? Please describe what you believe to be the most likely development of this “ecosystem.” Please cite and document any external sources relied upon in responding to this question. (OIR Question 34.)

22. How have other states and countries handled a shortage of pole or conduit capacity? Best practices? How do the legal and regulatory systems for pole attachments differ in such other states and countries, i.e., what practices elsewhere are relevant to pole attachments in this country? (OIR Question 35.)

3.4. Municipal and Smart Grid Issues

23. What impact does the investor-owned utility (IOU) placement of communications conductors in the supply space have on safety and competition? Do the IOUs currently have such facilities in the supply space and, if so, do they intend to deploy additional facilities in that space in the future? Are these facilities being used or do the IOUs intend to use them to provide dark fiber or lit communications services? Should the Commission adopt a prohibition against such usage in its revised ROW rules? (OIR question 40 revised.)
24. Should the use of the network to support the smart-grid, or other telemetry needs of the energy IOUs or water companies, be considered in the Revised ROW Rules, GO 95, or general rate cases? (OIR Question 41 revised.)

3.5. Joint Pole Associations or Committees

25. Do joint pole associations need to update their routine handbooks to accommodate the CMRS providers and wireless CLECs which have obtained pole access rights pursuant to D.16-01-046 and D.18-04-007? (OIR question 42.)
26. What reforms of joint pole association governance structures and the processes reflected in their respective routine handbooks

would help promote nondiscriminatory access to poles and contribute to pole safety. (OIR Question 43.)

27. Should the Commission direct its Communications and Safety Divisions to attend joint pole association meetings and have access to joint pole association /committee documents and data? (PHC notice issue 2.b.ii.)
28. Joint pole associations or committees active in California are directed to respond to the questions in Appendix C to the OIR, and their utility members are directed to request that they do so and provide any necessary information.

4. Schedule for OII Phases I and II, and OIR

Table 2: OII Phases I and II, and OIR Schedule

Task	Schedule
Parties file comments on proposed Use Cases (OII Phase I)	30 days after date of <i>Ruling</i>
Parties file pre-workshop comments (OII Phase I)	5 <i>business</i> days before the workshop
Workshop (OII Phase I)	45 days after date of <i>Ruling</i>
Staff provides draft workshop report to parties for comment (OII Phase I)	30 days after conclusion of the workshop
Parties provide to staff their comments regarding draft workshop report (OII Phase I)	15 days after receipt of draft workshop report
Staff files final workshop report (OII Phase I)	20 days after receipt of comments
Parties file comments on OIR questions set forth in Section 3 of <i>Ruling</i> (OIR)	30 days after receipt of final workshop report
OII Phase I proposed decision	To be determined
OIR proposed decision	To be determined
OII Phase II proposed decision	To be determined

Based on the OII Phases I and II schedule, as well as the OIR schedule, this OII/OIR proceeding will not be resolved within 18 months as required by Pub. Util. Code § 1701.5(a). But Pub. Util. Code § 1701.5(b) allows for the designation of a resolution date later than 18 months from the date the proceeding is initiated if specific reasons are shown. In this OII/OIR proceeding, the issues that must be resolved, the questions that the parties must address, the finalization of the Use Cases, and the fact that this proceeding combines both OII and OIR phases, means that this OII/OIR proceeding will require more than 18 months from its initiation to complete. Instead, this OII/OIR proceeding will be resolved within 18 months from date of this *Ruling*.

5. Category of Proceeding/Ex Parte Restrictions

This *Ruling* confirms the preliminary categorization that this Phase of the OII/OIR proceeding is quasi-legislative. Accordingly, *ex parte* communications are permitted without restriction or reporting requirement pursuant to Article 8 of the Commission's Rules of Practice and Procedure (Rules).

6. Contact With the Assigned Administrative Law Judge

Parties wishing to communicate with the assigned Administrative Law Judge shall do so only by e mail which is copied on the official service list. Telephone calls to the assigned Administrative Law Judge will not be answered. Voice mail messages will not be returned.

7. Need for Hearing

This OII/OIR proceeding gave the assigned Commissioner the discretion to make a final determination regarding the need for hearings. This *Ruling* determines that hearings are not needed.

8. Intervenor Compensation

Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation must have filed and served a notice of intent to claim compensation by March 5, 2018, 30 days after the PHC.

9. Public Outreach

Pursuant to Pub. Util. Code § 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the Commission's monthly newsletter that is served on communities and businesses that subscribe to it and posted on the Commission's website. In addition, the OII/OIR proceeding directed the Commission's Business and Community Outreach Office to reach out to associations of local governments to inform these associations about the OII/OIR proceeding. The outreach consisted of the following: in the first week of July, 2017, the information release (CPUC TO EXAMINE UTILITY POLE SAFETY AND COMPETITION; CONSIDERS CREATION OF POLE DATABASE) regarding the OII/OIR proceeding was distributed to a network of contacts and local governments throughout California, including city and county managers and public works officials. Information regarding the OII/OIR proceeding was also distributed to the League of CA Cities, CA Counties Associations, CA Council of Governments Association, and the Southern California Associations of Governments.

10. Public Advisor

Any person interested in participating in this OII/OIR proceeding who is unfamiliar with the Commission's procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission's Public

Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

11. Service of Documents on Commissioners and Their Personal Advisors

Rule 1.10 requires only electronic service on any person on the official service list, other than the Administrative Law Judge.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must NOT send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

12. Assignment of Proceeding

Michael Picker is the assigned Commissioner, and Robert M. Mason III and Timothy Kenney are the co-assigned Administrative Law Judges.

IT IS RULED that:

1. The scope of this proceeding is described above.
2. The schedule of this proceeding is as set forth above.
3. Evidentiary hearings are not needed.
4. The category of the proceeding is quasi-legislative.

Dated August 8, 2018, at San Francisco, California.

/s/ MICHAEL PICKER

Michael Picker
Assigned Commissioner